

**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**

IN RE:            Garden Foxwood                                 )  
                    Ward 074, Block 090, Parcel 00079         ) Shelby County  
                    Commercial Property                             )  
                    Tax Year 2005                                     )

## INITIAL DECISION AND ORDER

## Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$1,169,700	\$4,002,200	\$5,171,900	\$2,068,760

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on February 27, 2007 in Memphis, Tennessee. The assessor of property was represented by staff appraiser Sarah Trouy and Tameaka Stanton-Riley, Appeals Manager. The taxpayer proceeded in writing rather than personally appear.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

The parties stipulated that subject property should be valued at \$4,024,000 in the event the State Board of Equalization has jurisdiction over the appeal. The issue of jurisdiction arises from the fact the disputed appraisal was not appealed to the Shelby County Board of Equalization. Instead, the taxpayer filed a direct appeal with the State Board of Equalization which was received on October 5, 2005.

The administrative judge finds that Tennessee law requires a taxpayer to appeal an assessment to the County Board of Equalization prior to appealing to the State Board of Equalization. Tenn. Code Ann. §§ 67-5-1401 & 67-5-1412(b). A direct appeal to the State Board is permitted only if the assessor does not timely notify the taxpayer of a change of assessment prior to the meeting of the County Board. Tenn. Code Ann. §§ 67-5-508(a)(3) & 67-5-903(c). Nevertheless, the legislature has also provided that:

The taxpayer shall have right to a hearing and determination to show reasonable cause for the taxpayer's failure to file an appeal as provided in this section and, upon demonstrating such reasonable cause, the [state] board shall accept such appeal from the taxpayer up to March 1 of the year subsequent to the year in which the assessment was made.

Tenn. Code Ann. § 67-5-1412(e). The Assessment Appeals Commission, in interpreting this section, has held that:

The deadlines and requirements for appeal are clearly set out in the law, and owners of property are charged with knowledge of



them. It was not the intent of the 'reasonable cause' provisions to waive these requirements except where the failure to meet them is due to illness or other circumstances beyond the taxpayer's control.

*Associated Pipeline Contractors, Inc.*, Williamson County, Tax Year 1992, Assessment Appeals Commission (Aug. 11, 1994). See also *John Orovets*, Cheatham County, Tax Year 1991, Assessment Appeals Commission (Dec. 3, 1993). Thus, for the State Board of Equalization to have jurisdiction in this appeal, the taxpayer must show that circumstances beyond its control prevented it from appealing to the Shelby County Board of Equalization.

The taxpayer's representatives included with the appeal form an explanation why no appeal was made to the local board which provided in pertinent part as follows:

The consulting management staff was responsible for filing appeals prior to hearings. The consulting support manager took the file from the Tennessee consultant to conduct research prior to the appeal deadline. The support manager was under a physicians care at that time and had been given a new series of drugs due to a previous cancer condition. These drugs caused a serious reaction, which affected many of his mental faculties, including major memory lapses and other physical problems. After discovering that this property had not been filed timely, we began to discover the problems mentioned above. . . .

[Emphasis in original]

The administrative judge finds that the foregoing explanation constitutes reasonable cause for the taxpayer's failure to appeal to the Shelby County Board of Equalization. Accordingly, the administrative judge finds that the State Board of Equalization has jurisdiction and the stipulated value of \$4,024,000 should be adopted as the basis of valuation.

#### ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$1,169,700	\$2,854,300	\$4,024,000	\$1,609,600

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal "**must be**



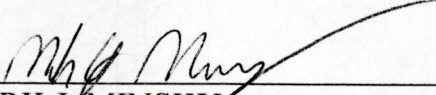
**filed within thirty (30) days from the date the initial decision is sent.”**

Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 7th day of March, 2007.

  
\_\_\_\_\_  
MARK J. MINSKY  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Richard Hayes  
Tameaka Stanton-Riley, Appeals Manager